LIBRARY
SUPREME COURT, U. S.

Office-Supreme Court, U.S.
FILED
APR 17 1968
JOHN F. DAVIS, CLERK

No. 1233

In the Supreme Court of the United States

OCTOBER TERM, 1967

EMMET P. BURKE, PETITIONER

v.

EVERETT T. CARPENTER, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

In the Supreme Court of the United States

OCTOBER TERM, 1967

No. 1233

EMMET P. BURKE, PETITIONER

v.

EVERETT T. CARPENTER, ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

On December 15, 1967, the court of appeals affirmed the district court's determination that the Post Office Department's action in reducing petitioner's employment grade was lawful (Pet. App. A–1). The petition for writ of certiorari was filed 91 days thereafter, on March 15, 1968.[1]

Section 2101(c) of Title 28 provides that "any writ of certiorari intended to bring any judgment or decree in a civil action * * * before the Supreme Court for review shall be taken or applied for within ninety days after the entry of such judgment or decree."

[1] Petitioner did not seek reconsideration in the Ninth Circuit or obtain an extension of time within which to file his petition for a writ of certiorari.

297-210—68

Since these limits are jurisdictional, the petition should be dismissed as untimely.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

APRIL 1968.

U.S. GOVERNMENT PRINTING OFFICE: 1968

